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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 BUNGIE, INC.,

9 Plaintiff,

10 v.

11 AIMJUNKIES.COM, et al.,

12 Defendants.

C21-0811 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable  
14 Thomas S. Zilly, United States District Judge:

15 (1) Plaintiff's motion to confirm arbitration award, docket no. 88, is  
16 RENOTED to May 1, 2023. On April 27, 2022, the Court entered an order referring  
17 Plaintiff's fourth through ninth causes of action to binding arbitration in accordance with  
18 Plaintiff's Limited Software License Agreement ("LSLA"), and stayed its consideration  
19 of the subject claims. Order (docket no. 33). On February 1, 2023, the Arbitrator issued  
20 his Final Award. *See* Final Award, Ex. A to Rava Decl. (docket no. 89-1). On February  
21 16, 2023, Plaintiff filed the present motion to confirm the award. In their response,  
22 Defendants argue that Plaintiff's motion is premature because the Federal Arbitration Act  
23 ("FAA"), 9 U.S.C. § 12, provides a party with a three-month limitation period to file a  
motion to vacate an arbitration award. The FAA, however, "does not impose an  
automatic three-month stay on confirmation" and the statute "explicitly authorizes a party  
to file a motion to confirm at any time during the year immediately following an  
arbitration award." *McLaurin v. Terminix Int'l Co.*, 13 F.4th 1232, 1240 (11th Cir.  
2021); 9 U.S.C. § 9. Accordingly, the Court concludes that Plaintiff's motion is not  
premature. Nevertheless, Defendants indicate that they intend to move to vacate the  
arbitration award. *See* Resp. at 3 (docket no. 93). To the extent Defendants intend to  
move to vacate the award, any motion must be filed in this action on or before May 1,

2023, and noted on the motions calendar no later than the third Friday thereafter. If Defendants do not timely file a motion to vacate the award, the Court will consider Plaintiff's motion after the new noting date.

(2) Defendants argue that this Court lacks subject matter jurisdiction to confirm the arbitration award, citing the United States Supreme Court's decision in *Badgerow v. Walters*, 142 S. Ct. 1310 (2022). This argument lacks merit and Defendants' reliance on *Badgerow* is misplaced. Although the FAA allows a party to an arbitration agreement to petition a federal district court to confirm or vacate an arbitral award, *see* 9 U.S.C. §§ 9–10, the federal court must have an "independent jurisdictional basis" to resolve the action. *Badgerow*, 142 S. Ct. at 1314 (citing *Hall Street Assocs., L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 582 (2008)). This Court has an independent jurisdictional basis to resolve Plaintiff's motion to confirm the arbitration award under its federal question jurisdiction, and the Court retained subject matter jurisdiction over the subject claims when it stayed the claims pending arbitration. Indeed, a court with authority to stay an action under the FAA "has the further power to confirm any ensuing arbitration award." *Jasem v. State Farm Fire & Cas. Co.*, No. CV-06-595, 2007 WL 1146433, at \*3 (D. Ariz. Apr. 18, 2007) (quoting *Cortez Byrd Chips, Inc. v. Bill Harbert Constr. Co.*, 529 U.S. 193, 202 (2000)); *SmartSky Networks, LLC v. Wireless Sys. Sols., LLC*, --- F. Supp. 3d ---, 2022 WL 4933117, at \*4 (M.D.N.C. Sept. 26, 2022). Plaintiff's motion also establishes that the Court has an additional independent jurisdictional basis to confirm the arbitral award because complete diversity exists between Plaintiff and Defendants and the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332; Mot. at 4–5 (docket no. 88). As the Supreme Court explained in *Badgerow*, "an obvious place" to look for an independent jurisdictional basis "is the face of the application itself," or in this case Plaintiff's motion. *See* 142 S. Ct. at 1316.

(3) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 23rd day of March, 2023.

Ravi Subramanian  
Clerk

s/Laurie Cuaresma  
Deputy Clerk